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EXAMINER

BROCKETTI, JULIE K

ART UNIT PAPER NUMBER

3713

DATE MAILED: 07/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/670,153

**Applicant(s)**

NICELY ET AL.

**Examiner**

Julie K Brockett

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

The disclosure is objected to because of the following informalities:

1. Page 5, line 5; the word “the” needs to be inserted after the word “by”.
2. Page 5, line 13; the word “and” needs to be deleted.

Appropriate correction is required.

### ***Claim Objections***

Claims 1, 4 and 9 are objected to because of the following informalities:

Claim 1, line 5 states, “...coupled by interface...” The word “the” or “said” needs to be inserted after the word “by”.

Claim 4, line 17; the word “system” should be “systems”.

Claim 9, line 8; the word “and” needs to be deleted.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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The claims state just the word “progressive”, for example, in claim 8 it states, “...when a user attains a progressive.” For rejecting the claims it was assumed that “a progressive” meant “a progressive jackpot”; however, “a progressive” does not have to be a jackpot and it is confusing as to what just “a progressive” might embody. Is it a progressive jackpot or a progressive game, etc.? Therefore the claims are indefinite.

Claim 17 states “...and having a same progressive payout parameters to a progressive...”. This preamble does not make sense. It is awkwardly worded and confusing.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-6 and 8-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Torango, U.S. Patent No. 6,241,608 B1.** Torango discloses a system for managing a progressive game. A progressive management device includes an interface (See Torango Fig. 1, item 111; col. 9 lines 17-20). A progressive engine is used for maintaining a progressive (See Torango Fig. 2). The progressive management device is coupled by the interface to a first

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gaming system and a second gaming system (See Torango Fig. 1). The first gaming system includes a first set of progressive payout parameters and the second gaming system includes a second set of progressive payout parameters that is different from the first set of progressive payout parameters (See Torango Fig. 1, 3; col. 11 lines 1-5, 38-53) [claim 1]. For example, a player may win the progressive jackpot by playing bingo, or the player may win the jackpot by playing keno. Each of these two games has different parameters that need to be met in order to win the progressive jackpot. The system further includes a progressive payout parameter analyzer, which analyzes the first and second set of progressive payout parameters (See Torango col. 12 lines 43-47) [claims 2, 10]. The progressive management device is coupled to the gaming systems through a network (See Torango Figure 1) [claim 3]. The system displayed in Figure 1 can be considered a network since it ties various computers and devices together. The progressive management device includes a currency conversion device for converting data provided from one of the gaming systems into a predetermined universal currency (See Torango col. 18 lines 33-35) [claim 4]. The currency conversion is performed in real-time (See Torango col. 18 lines 52-54) [claim 5]. For example, the conversion is performed with the updated currency exchange rates. The progressive management device is operable to provide information on a progressive to a user gaming interfaces, wherein the information includes the value of the progressive (See Torango col. 21 lines 30-31) [claim 6]. The progressive is reset when a user attains a

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progressive (See Torango col. 21 lines 12-15) [claims 8]. Torango further discloses a method for including systems having different progressive payout parameters into the same progressive. A progressive jackpot is initiated (See Torango col. 9 lines 51-53). A request is received from a first gaming system to participate in a progressive. A request from a second gaming system to participate in the progressive is received (See Torango col. 12 lines 57-65). The first gaming system has a first set of progressive payout parameters and the second gaming system has a second set of progressive payout parameters that is different from the first set of payout parameters (See Torango Fig. 1, 3; col. 11 lines 1-5, 38-53). A percentage of wager to be applied by each gaming machine to the progressive is calculated. The calculation is based on the first and second sets of progressive payout parameters (See Torango col. 13 lines 11-67) [claim 9]. The percentage of wager to be applied to each gaming system is calculated such that the product of progressive payout parameters odds and wager amount and the percentage of wager applied are equal for each gaming system (See Torango col. 13 lines 11-67; col. 14 lines 1-39) [claim 11]. THE progressive payout parameters include game odds (See Torango col. 13 line 29) [claim 12]. The progressive payout parameter includes a currency type (See Torango col. 13 line 20) [claim 13]. The system further includes a progressive management device coupled to a gaming server. The gaming server including two or more gaming stations, wherein one of the gaming stations includes a first set of progressive payout parameters and a second station includes a

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second set of progressive payout parameters that is different from the first set of progressive payout parameters (See Torango Fig. 1, 3; col. 11 lines 1-5, 38-53) [claim 14]. A server is a shared computer on the local area network and may be used as the gatekeeper for controlling data. As seen in Figure 1, the system can be considered to have a game server, item 102. Torango further discloses a method for including gaming systems having different currency types to a progressive. Input is received from one or more gaming servers seeking participation in a progressive jackpot. The characteristics of each gaming system are analyzed including the currency type of the gaming system. The currency type of each gaming system is converted into a standard currency (See Torango col. 18 lines 32-35). One or more gaming systems are included in the progressive jackpot by varying the percentage of the gaming system's wager applied to the progressive jackpot (See Torango col. 13 lines 11-67) [claim 15]. Furthermore Torango discloses a method for validating progressive payout parameters in gaming systems participating in a progressive. Requests are received from one or more gaming servers including one or more gaming systems to participate in a progressive. The gaming systems include a first gaming system having a first set of progressive payout parameters and a second set of progressive payout parameters that is different from the first progressive payout parameters (See Torango Fig. 1, 3; col. 11 lines 1-5, 38-53). The characteristics of each gaming system are analyzed (See Torango col. 12 lines 43-46). The characteristics include the progressive payout parameters.

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The progressive parameters of the gaming system are validated including verifying that game odds and a payoff are consistent and within predetermined criteria and including validated gaming systems in the progressive (See Torango col. 13 lines 11-67) [claim 16]. The system includes gaming systems from different enterprises and having a same progressive payout parameters to a progressive. A progressive management server is coupled through a network to two or more gaming servers. The gaming servers are operated by two or more enterprises. The gaming servers operate one or more gaming systems having the same progressive payout parameters (See Torango Figure 1) [claim 17]. The gaming systems have different progressive payout parameters (See Torango Fig. 1, 3; col. 11 lines 1-5, 38-53) [claim 18]. A method for determining a progressive outcome is disclosed. Data is received at a progressive management device concerning a wager placed by a user of a participating gaming system. The percentage of the wager to be applied to a progressive is determined based on progressive payout parameters analysis. The progressive payout parameters including game odds and wager amounts (See Torango col. 13 lines 11-67). The progressive is incremented (See Torango col. 6 lines 12-17). A random number generator calculation is executed using the game odds from the gaming system progressive payout parameters. The results of the random number generator calculation are transmitted to a participating gaming system (See Torango col. 15 lines 61-67; col. 16 lines 1-35) [claim 19]. A percentage of a wager to be applied to a progressive is



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determined through retrieval of previous analysis results from a database (See Torango col. 13 lines 11-67) [claim 20].

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Torango in view of Kelly et al., U.S. Patent No. 6,454,648 B1.**

Torango lacks in disclosing that the information is provided to the user gaming interfaces in real-time. Kelly teaches of a progressive game system in which information is provided to the user gaming interfaces in real-time (See Kelly col. 15 lines 58-66). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the information in real-time in the invention of Torango. By providing the information in real-time, the player is aware of the current status of the game and can then wager accordingly. Furthermore, the player is kept updated as to the current jackpot value, which may interest the player in continuing to play the game.

***Citation or Relevant Prior Art***

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. Torango, U.S. Patent No. 6,592,460 B2.

--Torango discloses a progressive wagering system involving currency conversion.

2. Weiss, U.S. Patent No. 5,611,730.

--Weiss discloses a progressive gaming system in which multiple gaming machines are linked for the progressive jackpot.

3. Pease et al., U.S. Patent No. 5,766,076.

--Pease et al. discloses a gaming system involving a progressive jackpot run over a network.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie K Brockett whose telephone number is 703-308-7306. The examiner can normally be reached on M-Th 7:30-5:00.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Julie K Brockett  
Examiner  
Art Unit 3713